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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,867	12/08/2003	Jan Folkmar	POLAA P110US	1177
7590 09/14/2005			EXAMINER	
Kenneth Garrett 392 LAKESHORE ROAD EAST OAKVILLE, ON L6J 1J8 CANADA			BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,867

Applicant(s)

FOLKMAR, JAN

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 4-10 is/are allowed.
- 6) ☒ Claim(s) 11-15 and 18 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

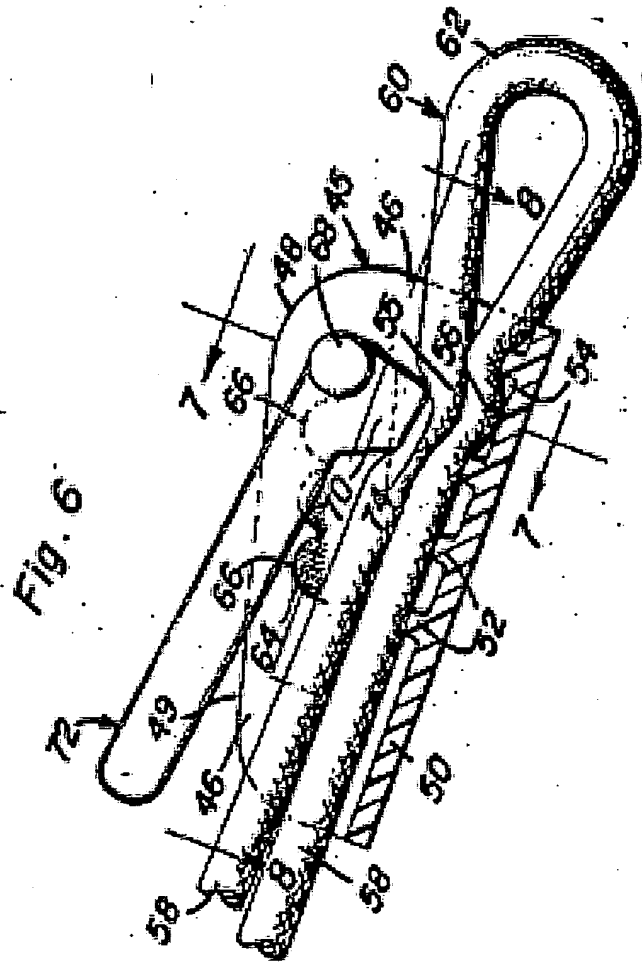
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-14 and 18 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Hoover (US 3354518).

Hoover (figures 5-9) teaches clip structure inherently usable to releasably close a bag or the like comprising in combination a pair of jaws 74, 54 elongated in an axial direction, a hinge disposed adjacent one axial end of the jaw to permit relative rotation thereof between an open position and a closed condition wherein the jaws are mutually confronting substantially along their length, wherein the hinge comprises a pair of opposed cheeks 46 associated with one of the jaws, each cheek having a bearing opening 64 therein, and a hinge blade 70 associated with the other of the jaws dimension to be snugly receivable between the cheeks, the hinge blade having a generally cylindrical hinge pin 68 formed unitarily therewith to project outwardly therefrom on opposed axially aligned sides thereof engaged in the bearing openings wherein the bearing openings 64 are generally vertically elongated by orienting the clip in space so as to have the slot vertically oriented to permit a sliding movement of the hinge pin therealong, and wherein each opening is provided with a plurality of detents 66 for arresting the sliding movement of the hinge pin as desired. The detents act to permit different sized structure to be secured as indicated (col.

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2, lines 38-51). A bag is fully capable of being secured by having the mouth of the bag in a gathered configuration and then inserted between the two jaws in place of the cord.



In regard to claim 12, the assembly of the lever 72 between the cheeks of the channel-shaped sheath 45 and the placement of the hinge pin 68 within the larger bearing openings 64 allows the entry of the hinge pin when it is canted. In regard to claim 13, the cheeks in the form of side walls 46 of the channel-shaped sheath form with the intervening web 50, three walls of a six sided box with three adjacent sides thereof open and since there are three adjacent sides open, it must necessarily follow that any two adjacent sides of these three open sides are also open,

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thereby meeting the claim language. As to claim 14, the detents 66 comprise recesses. In regard to claim 18, the lever remains closed in the gripping configuration by a latching function thereby locking the secured structure in place through its engagement with the secured structure and the use of the ribs or shoulders 52 that act to further the securement.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over Hoover (US 3354518).

Hoover (figures 5-9) teaches clip structure inherently usable to releasably close a bag or the like comprising in combination a pair of jaws 74, 54 elongated in an axial direction, a hinge disposed adjacent one axial end of the jaw to permit relative rotation thereof between an open position and a closed condition wherein the jaws are mutually confronting substantially along their length, wherein the hinge comprises a pair of opposed cheeks 46 associated with one of the jaws, each cheek having a bearing opening 64 therein, and a hinge blade 70 associated with the other of the jaws dimension to be snugly receivable between the cheeks, the hinge blade having a generally cylindrical hinge pin 68 formed unitarily therewith to project outwardly therefrom on opposed axially aligned sides thereof engaged in the bearing openings wherein the bearing openings 64 are generally vertically elongated by orienting the clip in space so as to be vertically oriented to permit a sliding movement of the hinge pin therealong, and wherein each opening is

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provided with a plurality of detents 66 for arresting the sliding movement of the hinge pin as desired. The detents act to permit different sized structure to be secured as indicated (col. 2, lines 38-51). A bag is fully capable of being secured by having the mouth of the bag in a gathered configuration and then inserted between the two jaws in place of the cord. The difference is that the bearing path does not have an exact cardioid form. It would have been obvious to utilize a cardioid form in view of the similarity in shape and function to that disclosed by Hoover and any small modification to the bearing path of Hoover would have therefore been obvious.

Allowable Subject Matter

Claims 1 and 4-10 are allowed.

Claims 16, 17, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

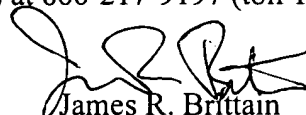
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James R. Brittain
Primary Examiner
Art Unit 3677

JRB